

**SPORTS FIELDS LEASE, DEVELOPMENT
AND OPERATION AGREEMENT
FOR THE NORTHERN SITE**

THIS LEASE, DEVELOPMENT AND OPERATION AGREEMENT is made and entered into this 5th day of February 2002 by and between the **Board of Supervisors of Fauquier County**, a body politic (hereinafter the "Board"), having its principal place of business at 40 Culpeper Street, Warrenton, VA 20186, and the **Fauquier Youth Sports Coordination Council, Inc.**, a Virginia Non-Stock Corporation (hereinafter the "Council"), having its principal place of business at 16599 Merchant Place, Suite 200, Warrenton 20187.

WHEREAS, the Board has acquired title to 88.6725 acres of real property more particularly described and shown on that certain plat of survey of Richard Vogel, C.L.S., dated 01/04/1985, said acreage being a portion of PIN 6070-40-3474-000, and is located at 7500 John Marshall Highway in Marshall District, and hereinafter known as the Park;

WHEREAS, the Board desires the property to be used for the establishment and operation of sports fields and other recreation purposes; and

WHEREAS, the Council was created to provide social and character development through recreational activities for the youth and other citizens of Fauquier County; and

WHEREAS, the Board and the Council desire that the Council develop and manage recreational activities on the hereinafter described portion of the property for the recreational use and benefit of the youth and general public of Fauquier County; and

WHEREAS, the Board, after due notice and public hearing as required by law, has determined that the lease of the hereinafter describe portion of the property to the Council to permit the development, use, management of the property for youth and general public recreational activities is in the best interest of the citizens of the County.

TERMS

WHEREIN IT IS MUTUALLY AGREED AS FOLLOWS:

1. Term, Renewal and Rent.

(A) The Board leases to the Council, and the Council leases from the Board, the hereinafter described real property for a term of 20 years (or until the term shall sooner cease or be terminated under the provisions of this lease) to commence at midnight on March 1, 2002. The term shall end at 11:59 P.M. on that date which is 20 years following the lease commencement date.

(B) **Renewal.** One year prior to the expiration of this agreement, the parties hereto shall enter into good faith negotiations for the renewal of this agreement upon such terms and conditions as can be agreed upon at that time.

(C) The annual rental for the premises shall be One Dollar (\$1.00) payable to the Board at its principal office at 40 Culpeper Street, Warrenton, VA 20186, on or before the tenth date of March of the leasehold year.

2. Property Leased.

The initial property (hereinafter "the premises") which shall be leased to the Council under the terms of this agreement is described as follows:

Approximately 30.5 acres of that certain 88.6765 acres described and shown on the attached Conceptual Master Plan, said Plan dated December 14, 2001, and said portion leased hereunder is identified on the Plan as "the lease area" and herein as "the premises," which Plan is incorporated into this Agreement as **Appendix "A."**

Together with the non-exclusive right to use the roads, trails, parking areas, restrooms, picnic pavilions, and other common structures located on the premises or the property retained by the Board.

Subject to the nonexclusive right of the Board and the general public to use the roads, trails, parking areas, restrooms, picnic pavilions and other common areas and facilities located on the premises.

Further subject to the right of the Board to grant utility easements in and across the premises and to locate said utilities in locations determined by the Board in its sole discretion, provided, however:

(a) the Board shall, upon installation of any utilities or other infrastructure return the premises to its original condition; and

(b) that any easements granted by the Board shall be for the sole purpose of serving the property acquired by the Board or upon the mutual agreement of the parties hereto.

3. Use.

The premises shall be used and developed by the Council solely as sports fields and recreation facility in strict accordance with a Master Facility Plan which shall be approved by the Board and the Council not later than twenty-four (24) months after the date of this agreement. If the Master Facility Plan is not approved by both the Board and the Council within twenty-four (24) months of the date of this agreement, this agreement shall be void and all parties shall be released from any and all liability hereunder and the Board may immediately re-occupy the premises.

All use of the premises shall be for the sole benefit of amateur youth sports leagues including but not limited to regularly scheduled league play and invitational tournaments. This provision shall not prevent the Council from scheduling occasional adult sports events or matches to take place but in all instances youth play shall be given precedence in scheduling over adult usage.

The Council shall not use the premises for any other purpose than that permitted under the terms of this agreement without the express written consent of the Board. The Council shall not commit nor permit any nuisance or unsafe condition to be created or maintained on the premises. The Council shall not operate or knowingly permit the operation of any illegal acts upon the premises.

The Council may use the premises or allow the premises to be used between dawn and dusk, provided, however, upon installation of field lights by the Council, the premises may be used from dawn until 11:00 PM.

4. Assignment and Sublease.

The Council shall not assign this lease without the prior written consent of the Board.

5. Council Accepts Premises "As Is"

(a) It is understood that the Council accepts the leased premises "AS IS" in the physical condition in which the same are now in, with no warranties or representations of whatever kind or nature including but not limited to warranties of fitness for a particular purpose. Except as hereinafter set forth the Board shall be under no obligation whatsoever to make any improvements to said premises during the term of this lease.

6. General Duties and Obligations of the Council.

The Council shall:

- a. On or before January 31st each year furnish to the Board a current list of the Council's board of directors, officers and employees, said list to include current addresses and phone numbers.
- b. Maintain throughout the term of this lease and any renewals thereof, the Councils corporate and IRC §501(c) status.
- c. Obtain, at its sole cost, all federal, state and local permits and approvals necessary for the development and use of the premises for sports fields.
- d. Schedule all use of sports fields. The Council shall have exclusive right to schedule fields. The Council shall give priority to youth sports activities when scheduling use of fields. Coordinate with sports leagues all actions necessary for the registration of players, eligibility of players and coaches, scheduling of leagues, the hiring and training of volunteers and paid workers and all other activities necessary for the conduct of league play on the premises. The Council may charge a fee for participation in the Council's athletic events, provided however, that any fee charged cannot exceed anticipated expense directly associated with the program, including appropriate allowances for participation in the program by children without sufficient funds to pay the fees. The fees are to be used solely for the purpose of covering expenses directly associated with the program and activities of the Council.
- e. Upon written request of the Director of the Fauquier County Department of Parks and Recreation, but not less than twice a year, meet with the Director and his staff to review, discuss and resolve issues arising out of the development, operation, and maintenance, of the sports field facility.
- f. Encourage all sporting league or event participants, coaches, officials, and spectators to demonstrate respect for each other and the facilities in order that youth sports will be an enjoyable experience for everyone.
- g. Report any and all vandalism and damage to the premises to the Parks and Recreation Department within 24 hours of incident. Within 48 hours of the incident the Council shall complete a report and forward a written description of such vandalism or damage to the Parks and Recreation Department including the date and time of notice and a brief description of the damaged or vandalized area.
- h. Provide general maintenance to the premises and, except as otherwise provided herein, any improvements located thereon.

7. General Obligations of the Board.

The Board shall:

- a. At the request of the Council execute and participate in all applications for governmental approvals and permits necessary for the development of the premises in conformance with the Master Facility Plan, and/or required to be obtained by the Council under paragraph 6(c) herein.
- b. Provide technical assistance through its Department of Parks and Recreation on league organization, operation, publicity, training, or other matters as requested.
- c. The Council and the Board, through its Department of Parks and Recreation, shall meet at least twice in a year to discuss scheduling issues related to the use of roads and parking lots.
- d. Install entrance gate and provide gate open and closing services.

8. Revenue/Income Reporting and Audit.

Revenue and income derived from the activities of the Council are the exclusive property of the Council but must be used by the Council in furtherance of its activities on the premises. The Council shall provide a full accounting of all revenue and expenses to the Board annually. The Board, at its expense, shall have the right to audit the financial information of the Council at any time.

9. Pesticides and Hazardous Materials.

The Council shall follow all Environmental Protection Agency and other applicable government regulations and guidelines, as to the labeling, use, storage and disposal of fungicides, herbicides, pesticides, and fertilizers. The Council shall not allow any hazardous waste, including, but not limited to, petroleum waste products, to be stored, used or placed on or in the premises or in or near any adjoining waterways. The Council shall immediately notify the Board in the event of any spillage or leakage of any fungicide, herbicide, pesticide, fertilizer, petroleum product, or hazardous substance, material, or waste on the premises. The Council shall not place any underground or above-ground storage tanks or containments on the property without the written consent of the Board.

In the event of the spillage or leakage of any fungicides, herbicides, pesticides, fertilizers, petroleum products, or hazardous materials, substances, or waste on the premises caused by the Council or the Council's employees, agents, volunteers, or invitees the Council shall immediately clean up said spillage or leakage and restore the premises to its prior condition at its own expense. All clean-up activities shall be conducted in strict accordance with all applicable

federal, state and local laws or regulations.

10. Utilities; Services.

(a) The Council shall be responsible for and promptly pay the cost of all utilities on the premises, including but not limited to electricity and telephone water, gas, sewage, garbage disposal, janitorial, and other utility bills related to the premises, except those specifically identified in this agreement as responsibilities of the Board, during the term of the Agreement.

11. Parking.

At all times while this lease is in effect, the Council shall have the non-exclusive right to use all the roads and parking spaces on the premises and on the property retained by the Board. The Council acknowledges that the Board and general public also has a non-exclusive right to use all such roads and parking spaces for people visiting the premises and adjacent county park property retained by the Board.

12. Development and Maintenance of Premises.

(a) Council Obligations.

The Council covenants and agrees to development and maintain at its sole cost the premises in strict accordance with the Master Facility Plan. Sports fields and all appurtenant structures and facilities shown on the Master Facility Plan shall be constructed in strict conformance with the specifications set forth in the Master Facility Plan which specifications shall include but not be limited to the level of field grading, seeding and other specifications set forth in the plan. The Council covenants that the sports fields identified in the Master Facility Plan shall be constructed on the premises in conformance with the following schedule of construction:

- i. The Council shall complete construction of a minimum of one of each of the following types of fields: football, soccer, baseball and softball within two (2) after the Board completes construction of all facilities required under paragraph 12(b)(i) of this Agreement.

- ii. In addition to the fields required by Subparagraph paragraph 12(b)(i), the Council shall complete construction of a minimum of one of each of the following types of fields: football, soccer, baseball and softball within four (4) after the Board completes construction of all facilities required under paragraph 12(b)(i) of this Agreement.
- iii. The Council shall complete construction of all remaining football, soccer, baseball and softball fields shown on the Master Facility Plan within seven (7) years after the Board completes construction of all facilities required under paragraph 12(b)(ii) of this Agreement.
- iv. The Council may at its sole expense and upon receipt of appropriate approvals by the County install sports field lighting, irrigation, picnic shelters, and other facilities after approval from the Board.
- v. The Council may use fields not constructed in strict conformance with the construction plans for a period of two years past those dates set forth in paragraph 12(b)(i). Upon the expiration of the two year period set forth in paragraph 12(b)(i), all use of temporary fields shall cease.

Except as hereinafter provided the Council shall be responsible for the maintenance of the premises, including, but not limited to, cutting grass, collection and disposal of trash from trash receptacles, picking up trash, and repairs to equipment, fields and structures located on the premises. All fields shall be maintained to the same level required at the time of construction. All other maintenance of the premises shall be consistent with the level of maintenance at public parks in the County so as to maintain the premises in good repair and in a neat, safe and orderly condition, normal wear and tear are excepted. In the event it is determined that damage to facilities and equipment has occurred due to abuse or misuse by the Council, the Council is responsible for the repair or returning the facility and equipment to its pre-damaged condition. All repairs and maintenance shall be made in a timely fashion so as to maximize the use of all fields. The Council shall provide proper grounds maintenance throughout the year, including grass mowing at least one time per week during the Council's sports season providing and applying herbicides, insecticides and fertilizer as necessary for proper grounds and playing field maintenance. Except as otherwise noted in this Agreement the Board shall have no duty whatsoever, to repair or maintain the premises or any field, structure, building or equipment located thereon, with the exception of vandalism or damage to the premises caused by the general public's use of the property for non-scheduled events in which the Board shall pay one-half of any cost not covered by insurance to repair the damage or vandalism.

For purposes of this Agreement, the term "complete construction" shall mean substantial completion and issuance of a Certificate of Occupancy, if required, for the facilities and structures as shown on the construction plans for the phase of development to be constructed under the terms of this contract.

(b) Board Obligations:

The Board shall install the following improvements to the premises:

- i. Within 2 years of the approval of the Master Facility Plan pursuant to paragraph 3 of this Agreement the Board shall install those roads, parking areas, maintenance facilities, boundary fencing with adjacent properties, main utility lines, and well and to provide a mechanism allowing this site to be connected to public sewer, identified as Phase I on the Master Facility Plan. Prior to the institution of restroom facilities the County will install and maintain portable toilet facilities sufficient, in its sole discretion, to serve the normal county sports field league activities, provided however, the Council shall obtain and pay the cost of any additional portable toilet facilities necessitate by any tournament or event.
- ii. Within 4 years of the approval of the Master Facility Plan pursuant to paragraph 3 of this Agreement the Board shall install those roads, parking areas, maintenance facilities, boundary fencing with adjacent properties, main utility lines, restroom facilities with drainfields identified as Phase II on the Master Facility Plan.
- iii. Within 6 years of the approval of the Master Facility Plan pursuant to paragraph 3 of this Agreement Board shall complete construction of all its infrastructure obligations and shall maintain said facilities in good working order throughout the term of this lease.

The Board shall maintain throughout the term of this Agreement, the following structures located on the premises: restrooms, picnic pavilions, roads, trails, parking lots, boundary fences with adjacent properties, buffer plantings, and main utility lines.

13. Rules and Regulations.

The Council covenants that the following rules, regulations, and stipulations, being in the Board's judgment, necessary for the safety, care and cleanliness of the premises, shall be faithfully kept, observed and performed by the Council, and by the agents, employees, volunteers and invitees of the Council, unless waived in writing by the Board.

- (a) No smoking on the premises by any employee, volunteer or member of the Council.

- (b) Except for those activities necessary for the Council's development of the property, the Council shall prohibit any conduct or activity which is prohibited in a public park under Section 16-6 and 16-7 of the Code of Fauquier County which Sections are incorporated herein as **Appendix B**.
- (c) Comply with Section 504 of the Rehabilitation Act of 1973, as amended, and Title VI of the Civil Rights Act of 1964, as amended. The Council and any league or use of the facility shall not discriminate against any person because of race, color, sex, religion, handicap, age, or national origin, by refusing to furnish services provided by the Council, including the right to participate in any sports league.
- (d) Membership in any league shall not be restricted on the basis of race, creed, color, religion, national origin, or sex. For senior adult groups, membership is restricted to persons 55 years of age or older.
- (e) Comply with the requirements of the Americans with Disabilities Act
- (f) The Council shall not deny membership in the Council to any organization or entity providing sports to the youth of Fauquier County, provided, however, that the Council shall have the right to set reasonable conditions for entry into the Council.

14. Erection of Permanent and Temporary Structures.

The Council shall not erect any permanent structure not shown on the Master Facility Plan without the written consent of the Board. At the termination of this lease any permanent structure shall become the sole property of the Board free and clear of any right, title, interest, lien or encumbrance of the Council or any other entity. In erecting any permanent structure, shown on the Master Facility Plan or which has been approved in accordance with this Agreement the Council shall obtain, at its sole cost, all permits and approvals necessary for the construction and use of the structure. Upon construction of any permanent structure the Council shall procure and maintain on the structure fire, property and other insurance in natures and amounts approved by the Board. At the expiration of this lease, title to any permanent structure erected on the premises shall revert to the Board in accordance with paragraph 28 herein.

The Council shall have the right to erect tents and other temporary structures on the premises provided that such structures are accessory to the sports field use permitted under this agreement. All temporary structures shall be erected not more than 48 hours prior to any activity and shall be removed with 48 hours after the conclusion of the activity or event. In no instance shall a temporary structure be maintained on the premises for a period exceeding one week. The Council shall obtain all government permits and approvals necessary to erect any temporary structure.

15. Taxes.

The Council shall pay all real estate taxes on the premises arising out of its use of the premises. The Council may request reimbursement of any taxes paid by it on the property which is the subject of this lease, which reimbursement request shall be in conformance with the Board's Policy on Donations.

16. Insurance and Indemnification.

- (a) The Council agrees to carry property, fire and extended coverage insurance insuring the permanent structures and the premises in policy limits as set forth in **Appendix C** hereto.
- (b) The Council shall keep vandalism and malicious mischief insurance on the premises in policy limits as set forth in **Appendix C** hereto.
- (c) The Council shall obtain and keep in force during the term of this lease and any renewal hereof, commercial general liability insurance with \$1,000,000 per occurrences and aggregate limits, including coverage parts of bodily injury, property damage, personal injury, non-owned and hired automobiles, and contractual liability, and sports participation cannot be excluded.
- (d) The Council shall require any other entity using the Park for organized events to have "special event" liability insurance, naming Fauquier County as an "additional insured".
- (e) All insurance carriers from which the Council procures insurance required under this Agreement shall be rated "A minus," VIII or higher by the most recently published edition of A.M. Best rating guide.
- (f) The Council shall provide thirty (30) days prior written notice to Fauquier County before any change in or cancellation of any of the identified coverages.
- (g) The Council shall obtain and keep in force such other insurance in such amount as mutually agreed by the Board and Council.
- (h) The Board shall be named a secondary insured on any policy of insurance procured by the Council in accordance with the provisions of this Paragraph.

- (i) The Council shall annually provide the Board with Certificates of Insurance for the insurance coverages set forth herein. Certificates shall be mailed to the Director, Fauquier County Parks and Recreation Department, 62 Culpeper Street, Warrenton, VA 20186. Certificates shall provide a thirty (30) day notice of cancellation and non-renewal clauses. Certificates of insurance shall be subject to the approval of the County's Risk Manager with all succeeding coverages and carriers to be consecutive to prior coverages.
- (j) The Council agrees not to violate, or knowingly or negligently permit or allow to be violated, any condition of any insurance policies requires by the Agreement. All insurance coverage of the Council must be primary to any insurance or self-insurance carried by Fauquier County applicable to this Agreement. The acceptance by Fauquier County of any certificate of Insurance does not constitute approval or agreement by Fauquier County that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate of Insurance is in compliance with the Agreement.

17. Waiver of Subrogation.

- (a) The Board and the Council, to the extent permitted by law, each hereby waives such causes of action either may have or acquire against the other which are occasioned by the negligence of either of them or their agents, employees or invitees resulting in the destruction of or damage to real or personal property belonging to the other and located on or in the premises or the structures and which are caused by fire and/or perils that are insurable in a standard fire insurance policy with an extended coverage endorsement approved for use in the State of Virginia.
- (b) Each party further agrees to cause any insurance policy carried by it to contain a waiver of subrogation or endorsement under which the insurance company waives its right of subrogation against any party to this lease.

18. Termination.

(a) By the Board.

The Board shall be entitled to terminate this Lease' without further obligation to the Council if any upon the following:

- (i) For cause - if an event of default is declared by the Board and the Council fails to cure the event of default within 60 days of the date of the written notice of default.
- (ii) Without cause - if the Board in its sole discretion determines that the lease should be terminated it may give the Council one hundred eighty (180 days) written notice of the termination of this lease without cause provided that the Board shall reimburse the Council for all replacement and moving costs expended by it on the development of the sports fields as of the date of termination. For purposes of this subparagraph, the phrase "replacement and moving costs" shall include the cost of:
 - a. purchasing a like number of acres acceptable to the Council and suitable for ballfields; and
 - b. all site and installation work necessary to create the number of fields of the same quality as those existing at the original premises at the time of termination without cause; and
 - c. the dismantling and re-erection of all structures existing at the original premises at the time of termination without cause and where structures cannot be dismantled or moved the purchase and installation of a like number and quality of structures as those existing at the original premises at the time of termination without cause; and
 - d. the installation of all roads, parking lots, restrooms and other infrastructure installed by the county at the original premises necessary for the operation of the sports facility.

(b) By the Council.

- (i) For Cause. The Agreement may be terminated by the Council at any time in case of material breach of the Agreement by the Board provided that the Council shall first give to the County written notice of the breach and sixty (60) days within which to remedy the breach.

- (ii) Without Cause. The Council may give the Board one hundred (180 days) written notice of the termination of this lease without cause provided that the Council shall reimburse the County for all reasonable costs expended by it on the development of the sports fields facility as of the date of termination along with the cost of work necessary to stabilize the premises.

19. Events of Default.

The following occurrences shall be considered an event of default which shall entitle to the Board to terminate this lease in accordance with Paragraph 18(a)(1) hereof.

1. If the Council fails to substantially complete the facility, as set forth in the Master Plan, as approved by the Board;
2. If the Council abandons active use and maintenance of the premises for the purposes intended by this agreement. *The* term 'active use' as used in this paragraph shall include: i) scheduling and conducting league play; ii) scheduling, administering and conducting tournaments; and, (iii) regular and proper maintenance of any improvements.
3. If the Council violates any term or condition of this Agreement.
4. The Council files a Petition for Bankruptcy or is the subject of the filing of an involuntary petition for bankruptcy.
5. Any monetary judgment is rendered against the Council.

20. Default.

- (a) Should the Board breach any covenant contained herein, then after thirty days written notice to the Board, and upon the Board's failure to cure said breach within such thirty day period, the Council shall be free to vacate the premises without further liability or obligations hereunder. In case of default by the Council and resumption of possession by the Board, or in case the term shall cease upon the breach of any of the conditions of this lease, or in case the Council shall be dispossessed for any cause, the rent shall be paid up pro-rata to the time of such resumption of possession, dispossession or cessation of the term.

- (b) Should the Council breach any covenant contained herein, then after thirty days written notice to the Council and upon the Council's failure to cure said breach within such thirty day period, the Council's right of possession shall thereupon cease, and the Board, its successors or assigns may proceed to recover possession of the premises by process of law. The Council shall be liable to the Board for its cost to recover possession, including reasonable attorneys fees.
- (c) Either party may restrain any threatened breach of the covenants to observe the conditions of this lease, or of any other covenants contained in this lease, but the mention of any particular remedy shall not preclude the Board or the Council from any other remedy it might have either in law or in equity; nor shall consent to an act that would otherwise be a violation hereunder, or waiver of, or failure to exercise remedies with respect to, a violation, either of a covenant or condition hereof, be deemed to be a consent to or waiver of any subsequent act or violation.

21. Eminent Domain.

In the event any part or all of the premises shall be taken by any exercise of eminent domain or by any other authority of law after the execution of this lease and before the expiration of the term hereof and any renewals, the Council shall retain any rights it might have to recover from the condemnor the damages, including moving expenses, to any and all real and personal property the Council has installed, placed, or stored upon the premises, but the Board shall retain the right to recover the value of the leasehold apart from the additions or improvements made by the Council. In the event that the entire premises are so taken, this lease shall terminate upon the effective date of taking. In the event that only part of the premises is taken, either party may terminate this lease upon written notice to the other, with this lease terminating on the effective date of the taking; if neither party exercises this option to terminate, the Board shall restore the remaining premises. All rent shall be abated until the remaining part of the premises shall be put in proper condition for use and occupancy, and thereafter adjustment shall be made of the proportion of the rent, according to the nature and extent of the injury sustained by the premises.

22. Occupancy.

The Council shall have the right to occupy the premises on the lease commencement date as set forth in paragraph 1.

23. Lack of Authority.

In the event that the powers of the Board shall be so construed by a Court of competent jurisdiction as not to permit the Board to lease the premise to the Council; to continue to use or permit the use of all or any part of the premises for the purpose for which it shall have been used under this agreement, then in that event, this lease and all obligations and liability of the Board of whatever kind hereunder shall terminate with respect to the premises or part thereof and all parties shall be released from any and all obligations contained herein.

24. Lease Obligations Subject to Appropriations.

Notwithstanding any other provisions of this lease, the Board shall be obligated hereunder for any obligation imposed upon it only insofar as, and to the extent that, the governing body of the Board shall appropriate monies for that purpose. The failure of the governing body of the Board to so appropriate monies shall automatically terminate this lease effective as of the first day of the budget year for which such monies have not been appropriated and the Board shall promptly thereafter give the Council written notice thereof, provided, however, upon request of the Council, the Board shall make reasonable efforts to re-negotiate the lease. Such failure of the governing body to so appropriate monies shall not constitute a default hereunder or entitle the Council to any remedies.

25. Entire Agreement; Binding on Successors.

- (a) This lease constitutes the entire agreement between the Board and the Council regarding the demise of the property herein described, and neither party may alter, amend, or waive and of the terms hereof, unless such amendment is in writing and executed by duly authorized signatories of the parties hereto.
- (b) The provisions of this lease shall bind the parties hereto and their legal representatives, successors and assigns, respectively, according to the laws of the Commonwealth of Virginia.

26. Quiet Enjoyment.

The Board covenants that the Council shall at all times during the lease term, including any renewals, peaceably and quietly occupy and enjoy possession of the premises without hindrance or disturbance by the Board or anyone claiming by, through or on behalf of the Board.

27. Reversion.

Upon termination, the lease shall not be renewed if required for any of the purposes mentioned in §15.2-1638 et seq. of the Code of Virginia, 1950, as amended, and at the termination of the lease, all improvements erected upon the premises shall revert to the County and shall be free and clear of any encumbrances at the time of such reversion.

28. Notice.

Notice shall be given by certified mail at the principal offices of the County of Fauquier and the Fauquier County School Board listed on page 1. Notice to the County shall be mailed to the attention of the Fauquier County Administrator. Notice to the School Board shall be mailed to the attention of the President of the Council.

29. Equipment.

All equipment or other personal property owned by the Council, which is placed or maintained on the premises by the Council, shall be at the sole risk of the Council. The Council shall remove from the premises any time prior to, or within sixty (60) days of the termination of the Agreement its equipment and personal property. Any Council equipment or personal property not removed from the premises within sixty (60) days after termination of the Agreement becomes the exclusive property of the County without recourse or cost.

30. Concessions.

The Council may maintain a concession activity for food and drink on the premises. The Council shall comply with all applicable County ordinances and local and state health regulations related to the provision of food and other concessions. The Council shall require any group or organization to obtain all applicable permits and approvals related to the sale of food and concessions including but not limited to health and business license permits. The Board will not, without the prior written approval of the Council, engage in any competing concession activities on the premises, either through its own agents or by the granting of concession privileges to any other person or entity, provided, however, the Board shall have the right to operate such concession activity as it shall deem appropriate on the portion of the property retained by the Board. Income derived from Council concession activities remain the exclusive property of the Council and must be used by the Council to further its activities on the premises and in providing additional improvements for the Council's programs.

31. Signs.

Except as hereinafter provided, all commercial advertising billboards or sign shall be prohibited. The Board, however, recognizes that the Council may be soliciting funds from the public and quasi-public sources, individuals and corporate/commercial enterprises in order to fund the development of the premises and therefore authorizes the erection of the following signage on the premises : Sponsorship signs erected in conformance with the Fauquier County

Zoning Ordinance and which shall be uniform in size and shape with general display locations fronting inwards or facing a playing field. No sign may serve as an external advertisement facing outwards toward roadways or other public facilities, and no sign is allowed on the Park's perimeter fencing.

Signs used for team or Council sponsor advertising remains the separate property of the Council and all the income derived from their display shall be used to further Council activities under this Agreement.

32. Entire Agreement.

The Agreement contains the entire agreement of the parties and no representations, inducements, promises, or agreements between the parties not contained in the Agreement will be of any force and effect. Any amendments, modifications, additions, or alterations of the Agreement must be in writing executed with the same formalities as the Agreement.

33. Hold Harmless.

The Council shall indemnify and hold harmless Fauquier County, its subsidiaries or affiliates, elected and appointed officials, employees, volunteers, representatives and agents from any and all claims, suits, actions, damages, penalties, interest, attorney and paralegal fees, liability and expenses in connection with the loss of life, bodily or personal injury, environmental impairment, property damage, including loss of use of the property, zoning or similar issues, directly or indirectly caused by, resulting from, arising out of or occurring in connection with the Council's negligent performance of the Agreement. The Council's obligation is not limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance.

34. No Liens or Encumbrances.

The Council shall not permit any lien, mortgage, judgment or encumbrance to attach to the premises during the term of this Agreement.


35. Miscellaneous.

- (a) If any term or condition of the Agreement or the application of the Agreement to any person or circumstance is, to any extent, invalid or unenforceable, the remainder of the Agreement, is not affected and each term and condition of the Agreement is to be valid and enforceable to the fullest extent permitted by law.
- (b) The Agreement will be constructed in accordance with the laws of the State of Virginia.
- (c) Venue for any action arising under the terms of this agreement shall be in the Circuit Court of Fauquier County, Virginia.

the Circuit Court of Fauquier County, Virginia.

- (d) Nothing contained in the Agreement can be deemed by the parties or by any third party to create the relationship of principal and agent, partnership, joint venturer or similar relationship between the County and the Council.
- (e) The Agreement cannot be more strictly construed against either party because one party may have drafted or prepared any or all of the terms and provisions of the Agreement. It is acknowledged that each of the parties has been represented by legal counsel and that each of the legal counsel has contributed substantially to the content of the Agreement.

WITNESS THE FOLLOWING SIGNATURES AND SEALS:

APPROVED AS TO FORM	
	<u>1-31-02</u>
COUNTY ATTY.	DATE

**BOARD OF SUPERVISORS OF
FAUQUIER COUNTY, A Body Politic**

by: _____

**FAUQUIER YOUTH SPORTS
COORDINATION COUNCIL, INC.,
A Virginia Non-Profit Corporation**

by: _____

- Appendix A - Conceptual Master Plan
- Appendix B - Sections 16-6 and 16-7 (Code of Fauquier County)
- Appendix C - Insurance

PSM/sj/youth league agreement / D-WORK